**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT :**

**THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR**

**MONDAY, THE 2ND APRIL 2007 / 12TH CHAITHRA 1929**

**WP(C).No. 10445 of 2007(R)**

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**PETITIONER:**

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**THE BOMBAY BURMAH TRADING CORPORATION LIMITED A COMPANY REGISTERED UNDER THE INDIAN COMPANIES ACT, SUBRAMANIAN ROAD, WILLINGDON ISLAND KOCHI-682 003, REPRESENTED BY ITS PRINCIPAL OFFICER, ANITHA ANILKUMAR, MANAGER (ACCOUNTS)**

**BY ADV. SRI.D.KRISHNA PRASAD**
**SRI.D.NARENDRANATH**
**SRI.M.HARISHARMA**
**SRI.T.P.ELDHOSE**
**SMT.O.K.SANTHA**

**RESPONDENTS:**

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1. **THE TAHSILDAR, KOCHI.**

2. **THE VILLAGE OFFICER, THOPPUMPADY.**

3. **STATE OF KERALA, REPRESENTED BY ITS CHIEF SECRETARY, SECRETARIAT, THIRUVANANTHAPURAMM**

**BY SR.GOVERNMENT PLEADER SRI.MOHAMMED RAFIQ**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 02/04/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

**W.P.(C) NO. 10445/2007**

**APPENDIX**

**PETITIONER'S EXHIBITS**

**EXT.P1:- COPY OF THE SALE DED NO.332/70 SR.7.11.69 OF THE KOCHI SUB REGISTRY OFFICE.**

**EXT.P2:- COPY OF THE ASSIGNMENT DEED DT.7.11.69 NO.2468/69 OF THE KOCHI SUB REGISTRY OFFICE.**

**EXT.P3:- COPY OF THE PROCEEDINGS NO.R30-1724/71 DT..26.11.71 OF THE DEPUTY COMMISSIONER, CORPORATION OF COCHIN.**

**EXT.P4:- COPY OF THE COMMUNICATION DT. 9.1.73 NO.R 30 /73 ISSUED BY THE DEPUTY COMMISSIONER, CORPORATION OF THE COCHIN.**

**EXT.P5:- COPY OF THE ORDER NO.TP5.12605/79 DT.3.12.79 OF THE CORPORATION OF COCHIN.**

**EXT.P6:- COPY OF THE PLAN APPROVED BY THE CORPORATION OF COCHIN.**

**EXT.P7:- COPY OF THE COMMUNICATION DT.29.9.80 NO.17/B/S5/LANDS/69/57 ISSUE BY THE DEPUTY CHIEF ENGINEER, COCHIN PORT TRUST.**

**EXT.P8:- COPY OF THE COMMUNICATION DT.30.10.91 OF THE 1ST RESPONDENT.**

**EXT.P9:- COPY OF THE RETURN DT.7.12.91 SUBMITTED BY THE PETITIONER TO THE 1ST RESPONDENT.**

**EXT.P10:- COPY OF THE COMMUNICATION DT.28.2.06 ISSUED BY THE 1ST RESPONDENT.**

**EXT.P11:- COPY OF THE LETTER DT. 7.3.06 SENT BY THE PETITIONER TO THE 1ST RESPONDENT.**

**EXT.P12:- COPY OF THE DEMAND NOTICE DT.8.3.07 ISSUED BY THE 1ST RESPONDENT.**

**EXT.P13:- COPY OF THE ASSESSMENT ORDER DT.8.3.07 ISSUED BY THE 1ST RESPONDENT.**

**EXT.P14:- COPY OF THE NOTICE BEARING NO.B5-11819/05 DT.21.3.07 ISSUED BY THE 1ST RESPONDENT.**

**/TRUE COPY/**

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K.BALAKRISHNAN NAIR, J.

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W.P.(C) NO. 10445 OF 2007-R

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JUDGMENT

The petitioner challenges Ext.P13 assessment order and also Ext.P14 consequential demand. The main contention of the petitioner is that substantial part of the building was constructed by it, long before the commencement of the Kerala Building Tax Act, 1975. It added a constructed area of 359.40 sq.metres to the said building in 1979. At the relevant time, the building tax was liable to be assessed with reference to the capital value of the building and not with reference to the plinth area. Now, the present assessment has been made as if the entire building was constructed recently and assessment of tax has been made with reference to the plinth area. So, the petitioner attacks Ext.P14 consequential demand also. It is pointed that Ext.P13 is an order passed by filling the blanks in a printed format.

2. I heard the learned Government Pleader for the respondents also. Ext.P13 cannot be sustained for the reason that it is a non-speaking order. Accordingly, it is quashed. The 1st respondent Tahsildar is directed to afford an opportunity of being heard to the petitioner and pass a fresh

speaking order, dealing with the contentions of the petitioner within two months from today. The petitioner shall produce a copy of this judgment before the 1st respondent within two weeks from today.

The Writ Petition is disposed of as above.

2nd April, 2007. K.BALAKRISHNAN NAIR, JUDGE.

Nm/